

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1444 OF 2005

Prakash J. Jaju. ... Petitioner
Versus.
State of Maharashtra & others. ... Respondents.

Shri A.S.Khandeparkar i/by Shri S.R.Saudagar for the
Petitioner.

Shri K.V.Saste, A.P.P. for the Respondents.

CORAM : ABHAY S. OKA, J.

DATED : 21st June, 2005.

P.C.:

1. Rule. The learned A.P.P. waives service for the Respondent. Considering the facts and circumstances of the case taken up for hearing forthwith.

2. By this petition under Article 227 of the Constitution of India, the challenge is to the order dated 21st April 2005 passed by the Respondent No.2 by which he directed the Petitioner to furnish a surety of an appropriate person in the sum of Rs.25,000/- for a period of one year. The Respondent No.2 directed that the surety has to be an office bearer of a Women's

Organisation. The Respondent No.2 while passing the said order recorded that the Petitioner was not present and therefore, arrest warrant should be issued. Accordingly the matter was kept before him on 27th April 2005. On 27th April 2005 the Petitioner appeared before

the Respondent No.2 and he was granted time upto 30th April 2005 for complying with the earlier order.

3. In the petition it is asserted that the Petitioner filed an Application before the Respondent No.2 informing him that the Petitioner was intending to challenge the order and prayed that the impugned order may not be executed for a period of four weeks.

4. On 13th May 2005 when this petition was placed before this Court, time of one week was granted to the Petitioner to comply with the order dated 21st April 2005 subject to modification that the surety need not be from the Women's Organisation. Shri Khandeparkar appearing for the Petitioner has stated that the Petitioner has complied with the order dated 21st April 2005 as directed by this Court by order dated 13th May 2005 and the surety has been furnished. Statement is accepted.

5. Shri Khandeparkar submitted that the proceedings under Chapter VIII of the said Code of 1973 could not have been initiated for vindicating private grievance. He submitted that there is a dispute between the Petitioner and Ms.Priyanka Chopra and for vindicating such a dispute, criminal proceedings could not have been initiated against the Petitioner. He submitted that the condition imposed by the Respondent No.2 of furnishing

surety of an office bearer of a women's organisation is contrary to law. He submitted that the order dated 21st April 2005 is the final order in the proceedings and there was no question of keeping the proceedings pending.

6. The learned A.P.P.has supported the impugned order. While supporting the impugned order, the learned A.P.P. has stated that the order dated 21st April 2005 will have to be treated as a final order.

7. It is stated before me that the Petitioner has already furnished surety in terms of order dated 13th May 2005 passed by this Court. The Respondent No.2 could not have imposed the condition of furnishing a surety of the office bearer of women's organisation. Therefore, this Court passed ad-interim order and directed the Petitioner to furnish surety of a person who need not be an office bearer of a women's organisation.

8. A perusal of the order dated 21st April 2005 shows that the Respondent No.2 has passed the final order and the next date was fixed on 27th April 2005 for reporting compliance with the warrant ordered to be issued on that day against the Petitioner.

9. As the order dated 21st April 2005 is final order

and as the Petitioner has made compliance with the said order by furnishing a surety, no further order is required to be passed in that petition save and except observing that the proceedings before the Respondent No.2 will have to be treated as closed by virtue of the order dated 21st April 2005 and the said order stands modified to the extent as mentioned in the order dated 13th May 2005 by this Court. The petition is disposed of accordingly.

Judge.